

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Engrossed House Bill 1001(ss) be amended to read as follows:

- 1       Page 148, between lines 28 and 29, begin a new paragraph and
- 2       insert:
- 3       "SECTION 128. IC 6-9-34 IS ADDED TO THE INDIANA CODE
- 4       AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5       JULY 1, 2002]:
- 6       **Chapter 34. Uniform Food and Beverage Tax**
- 7       **Sec. 1. This chapter applies to a municipality (as defined in**
- 8       **IC 36-1-2-11) or county that has not imposed a food and beverage**
- 9       **tax under this article.**
- 10       **Sec. 2. As used in this chapter, "beverage" includes any**
- 11       **alcoholic beverage.**
- 12       **Sec. 3. As used in this chapter, "food" includes any food**
- 13       **product.**
- 14       **Sec. 4. As used in this chapter, "fund" refers to a food and**
- 15       **beverage tax receipts fund established under section 13 of this**
- 16       **chapter.**
- 17       **Sec. 5. As used in this chapter, "gross retail income" has the**
- 18       **meaning set forth in IC 6-2.5-1-5.**
- 19       **Sec. 6. As used in this chapter, "person" has the meaning set**
- 20       **forth in IC 6-2.5-1-3.**
- 21       **Sec. 7. As used in this chapter, "retail merchant" has the**
- 22       **meaning set forth in IC 6-2.5-1-8.**
- 23       **Sec. 8. (a) The fiscal body of a municipality or county may adopt**
- 24       **an ordinance to impose a food and beverage tax on transactions**
- 25       **described in section 9 of this chapter.**
- 26       **(b) If a fiscal body adopts an ordinance under subsection (a), it**
- 27       **shall immediately send a certified copy of the ordinance to the**
- 28       **commissioner of the department of state revenue.**
- 29       **(c) If a fiscal body adopts an ordinance under subsection (a), the**

1 food and beverage tax applies to transactions that occur after the  
 2 last day of the month that immediately follows the month in which  
 3 the ordinance is adopted.

4 Sec. 9. (a) Except as provided in subsection (c), a tax imposed  
 5 under section 8 of this chapter applies to a transaction in which  
 6 food or beverage is furnished, prepared, or served:

7 (1) for consumption at a location, or on equipment, provided  
 8 by a retail merchant;

9 (2) in the municipality or county that imposed the tax; and

10 (3) by a retail merchant for consideration.

11 (b) Transactions described in subsection (a)(1) include  
 12 transactions in which food or beverage is:

13 (1) served by a retail merchant off the merchant's premises;

14 (2) sold by a retail merchant who ordinarily bags, wraps, or  
 15 packages the food or beverage for immediate consumption on  
 16 or near the retail merchant's premises, including food or  
 17 beverage sold on a "take out" or "to go" basis; or

18 (3) sold by a street vendor.

19 (c) The food and beverage tax does not apply to the furnishing,  
 20 preparing, or serving of any food or beverage in a transaction that  
 21 is exempt, or to the extent that the transaction is exempt, from the  
 22 state gross retail tax imposed by IC 6-2.5.

23 Sec. 10. The food and beverage tax imposed on a transaction  
 24 described in section 9 of this chapter equals one percent (1%) of  
 25 the gross retail income received by the retail merchant from the  
 26 transaction. For purposes of this chapter, the gross retail income  
 27 received by the retail merchant does not include the amount of  
 28 state gross retail tax imposed by IC 6-2.5.

29 Sec. 11. A tax imposed under this chapter shall be imposed,  
 30 paid, and collected in the same manner that the state gross retail  
 31 tax is imposed, paid, and collected under IC 6-2.5. However, the  
 32 return to be filed for the payment of the tax imposed under this  
 33 chapter may be made on a separate return or may be combined  
 34 with the return filed for payment of the state gross retail tax, as  
 35 prescribed by the department of state revenue.

36 Sec. 12. The amounts received from a tax imposed under this  
 37 chapter shall be paid monthly by the treasurer of state upon  
 38 warrants issued by the auditor of state to the municipality or  
 39 county that imposed the tax.

40 Sec. 13. (a) If a tax is imposed under section 8 of this chapter,  
 41 the fiscal body of the municipality or county shall establish a food  
 42 and beverage tax receipts fund.

43 (b) The fiscal officer of the municipality or county shall deposit  
 44 in the fund all amounts received under this chapter.

45 (c) Any money earned from the investment of money in the fund  
 46 becomes a part of the fund.

47 (d) A municipality or county shall use money in the fund to:

48 (1) fund the development of promotion and tourism;

1           (2) finance capital projects; or  
 2           (3) promote public safety;  
 3       **in the municipality or county. Money in the fund may not be used**  
 4       **for facility operating costs.**

5           **Sec. 14. (a) A municipality or county that imposes a tax under**  
 6       **section 8 of this chapter may enter into an agreement under which**  
 7       **amounts deposited in or to be deposited in the fund are pledged to**  
 8       **the payment of obligations issued to finance a use authorized under**  
 9       **section 13 of this chapter.**

10          **(b) With respect to an obligation for which a pledge has been**  
 11       **made under subsection (a), the general assembly covenants with**  
 12       **the holders of the obligation that:**

13           **(1) this chapter will not be repealed or amended in any**  
 14           **manner that will adversely affect the imposition or collection**  
 15           **of the tax imposed under this chapter; and**

16           **(2) this chapter will not be amended in any manner that will**  
 17           **change the purpose for which revenues from the tax imposed**  
 18           **under this chapter may be used;**

19       **as long as the payment of the obligation is outstanding."**

20       Renumber all SECTIONS consecutively.

(Reference is to EHB 1001(ss) as printed June 13, 2002.)

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Senator MEEKS C